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Paper No. 6

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In re Application of
Stenzel
Application No. 10/001,960
Filed: December 5, 2001
Attorney Docket No. 12013/58901

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: DECISION GRANTING
: PETITION
:

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.53(e), filed January 31, 2002 and supplemented on May 3, 2002, requesting withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed January 9, 2002.

The application was deposited on December 5, 2001. On January 9, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that the application contained no drawing figures. Therefore, the application had not been accorded a filing date. Petitioner was given a non-extendable 2 month period from the mail date of the Notice to (1) supply drawings and a newly executed oath/declaration covering the drawings in order to obtain a filing date as of the date of the newly deposited drawings or (2) submit evidence that the drawings were in fact deposited on December 5, 2001 in order to obtain a December 5, 2001 filing date.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of December 5, 2001 on the basis that 4 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on December 5, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 5, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawing figures were filed on December 5, 2001. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 5, 2001, using the copies of drawing figures 1,2,3,4, 5,6,7,8,9,10,11 & 12 submitted with the instant petition. Office records will be corrected to show that 4 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy